

1
2
3
4
5
6
7
8
9
10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA
12

13 UNITED STATES OF AMERICA,) 3:05-cr-00098-HDM
14 Plaintiff,)
15 vs.) ORDER
16 JOHNATHON ROBERTS,)
17 Defendant.)
18

19 Before the court is the defendant's motion to vacate, or in
20 the alternative motion under Federal Rule of Civil Procedure 60(b)
21 (#518).

22 Defendant's motion is a successive petition under 28 U.S.C. §
23 2255. Where the defendant has previously filed a § 2255 petition,
24 a second or successive § 2255 petition cannot be considered by the
25 district court absent a certificate from the Court of Appeals
26 authorizing it to do so. 28 U.S.C. § 2255(h); *id.* § 2244; *United*
27 *States v. Washington*, 653 F.3d 1057, 1065 (9th Cir. 2011). No such
28 certificate has been presented to this court. Accordingly, to the

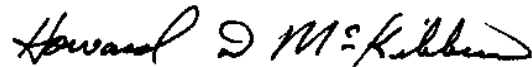
1 extent the motion raises arguments cognizable in a § 2255 petition,
2 the court is without jurisdiction to consider defendant's motion.
3 The petition is therefore **DISMISSED**.

4 Defendant previously filed a Rule 60(b) motion on February 10,
5 2014. On May 16, 2014, the court denied defendant's prior Rule
6 60(b) motion, and on July 14, 2014, the Court of Appeals declined
7 to issue a certificate of appealability. Accordingly, defendant's
8 motion to vacate the court's order of May 16, 2014, is **DENIED**.

9 For the foregoing reasons, the defendant's motion to vacate,
10 or in the alternative Rule 60(b) motion, is hereby **DENIED**.

11 IT IS SO ORDERED.

12 DATED: This 22nd day of September, 2015.

13 
14

15 UNITED STATES DISTRICT JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28